

UNITED STATES DISTRICT COURT  
DISTRICT OF MAINE

UNITED STATES OF AMERICA	)	
	)	
v.	)	Crim. No. 5-101-P-S
	)	
DAVID CLOUGH	)	
	)	
Defendant	)	

**ORDER**

David Clough has filed a letter request asking that the sentencing judge in his criminal case “order” the Bureau of Prisons to cease and desist from using his former name or a/k/a, David Finch. The letter has been referred to me by the sentencing judge. Clough raised a similar issue in a 28 U.S.C. § 2255 motion that he filed with the court last December. See Finch v. United States, Civ. No. 08-415-P-S. In that motion Clough identified himself as “David Clough Finch” on the typewritten petition and signed the petition “David Finch a.k.a. Clough.” The criminal judgment in the underlying case, United States v. Clough, Crim. No. 5-101-P-S, clearly has been entered against David Clough a/k/a David Finch. (Crim. No. 5-101-P-S, Doc. No. 23.) An earlier judgment and a subsequent revocation of supervised release entered simultaneously with the conviction in this case were entered against David Finch, without reference to the Clough surname. See United States v. Finch, Crim. No. 95-34-P-S. Apparently Clough was originally imprisoned on the 1995 conviction and his name change has never been acknowledged by the Bureau of Prisons. Obviously this confusion of names has created a problem for Clough during his current period of incarceration with the Bureau of Prisons. Clough understandably wants the Bureau of Prisons to refer to him as David Clough in all of its documentation.

Apparently he has changed his name to Clough to avoid some past unpleasantness associated with the name “David Finch.”

According to the Inmate Locator, the on-line data base maintained by the Bureau of Prisons, there is no inmate named David Clough. A search under the name of David Finch or the inmate number provided by Clough on this letter motion, 09784-036, does produce an inmate whose description and release date would appear to match those of David Clough, the name of the person convicted in this particular case. The results of this search suggest to me that Clough has correctly reported the state of affairs with the Bureau of Prisons and that they have refused to correct their documentation on his request. There is no question that the judgment of conviction in this case, United States v. Clough, Crim. No. 05-101-B-S, bears the name David Clough and acknowledges that he is also known as David Finch.

Other than acknowledging the name of conviction on the underlying judgment, it appears to me that that there is little the sentencing judge or any other judicial officer in this court can do about the Bureau of Prisons’ decision to identify Clough by his former name. His “David Finch” sentence, imposed the same date as the David Clough sentence, June 7, 2006, was the shorter sentence of only thirteen months and the judgment suggests that the “David Finch” sentence was to be served first. That means Clough is now imprisoned in execution of the much longer “David Clough” sentence.

This court cannot “order” a non-party to the proceeding to take some administrative action regarding its record keeping procedures, even when those records fail to fully reflect the status of this court’s docket. See James v. United States Customs and Border Protection, 549 F. Supp. 2d 1, 11 (D.D.C. 2008). However, it does appear that David Clough is currently serving a

sentence imposed by this court on June 7, 2006, under the name of David Clough and that the Bureau of Prisons' records available to this court do not accurately reflect that fact.

The letter request is dismissed because this Court is unable to provide the relief requested against a non-party to the proceeding.

CERTIFICATE

Any objections to this report shall be filed in accordance with Federal Rule of Criminal Procedure 59.

***So Ordered.***

June 10, 2009

/s/ Margaret J. Kravchuk  
U.S. Magistrate Judge